

20 KAR 1:040. Unclaimed properties; claims.

RELATES TO: KRS 393.010, 393.040, 393.110, 393.130, 393.140, 393.150

STATUTORY AUTHORITY: KRS 393.280(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 393.280(4) allows the State Treasurer to promulgate administrative regulations and any reasonable and necessary rules for the enforcement of KRS Chapter 393. KRS 393.130 allows the holder of unclaimed property or the Division of Unclaimed Property, Kentucky Department of Treasury, to turn that property over to a claimant upon proper proof. This administrative regulation establishes requirements for claims for unclaimed property.

Section 1. Entities to Whom Claims Shall Be Filed. (1) A claim for unclaimed property held in an interest-bearing demand, savings or time deposit held in an account assignable to the Department of the Treasury under KRS 393.130(5) shall be filed in writing with the holder of the unclaimed property.

(2) A monetary claim for unclaimed property not held in an interest-bearing demand, savings or time deposit account shall be filed in writing with either the Department of the Treasury or the holder who remitted the unclaimed property to the Department of the Treasury.

(3) All other claims for unclaimed property shall be made in writing and filed with the department.

Section 2. Proof. (1) Upon receipt of a claim for unclaimed property which has been transferred to the department by the apparent owner or a holder seeking to recover money paid to an apparent owner, the Department of the Treasury shall determine whether or not there is sufficient proof that the claimant is entitled to the claimed property.

(2) Documentation to prove ownership may consist of one (1) of the following:

(a) Driver's license or other government-provided picture identification;

(b) A document proving Social Security number;

(c) Copy of birth certificate;

(d) If the owner of the property is deceased, a copy of death certificate and one (1) of the following:

1. Copy of probate distribution;

2. Copy of an order of the court appointing an administrator to an estate;

3. A copy of an order from the court dispensing with administration; or

4. A small estate affidavit;

(e) Copy of marriage certificate;

(f) Copy of divorce decree;

(g) A signature verification card of a financial institution; or

(h) Copy of guardianship or trust agreement.

(3) If the claimant documents that the items required by subsection (2) of this section are not available or not applicable, the claimant may submit for consideration use other documentation in support of the claim including the following:

(a) An income tax return;

(b) Adoption records;

(c) Court records;

(d) A certificate of deposit;

(e) Stale dated checks;

(f) Public or business records;

(g) Copy of documentation providing a connection with the reported address or business for the

year cited as the "Date of Last Transaction" in the holder's report;

(h) Newspaper articles including a marriage announcement, birth or obituary notice;

(i) Family or church records;

(j) Personal correspondence; or

(k) A notarized affidavit executed by an individual other than the claimant having knowledge of a claim.

(4) In addition to the items required by subsection (2) of this section, additional evidence which may be considered by the Department of the Treasury to establish ownership for property valuing over \$400 shall include:

(a) For a checking account:

1. A check showing the account number for that bank; or

2. A statement on that account which contains the account number;

(b) For a savings account:

1. A copy of the passbook showing the account number; or

2. Correspondence referencing the account number;

(c) For a safe deposit box:

1. A copy of the safe deposit box rental receipt; or

2. Correspondence referencing that rental;

(d) For wages, a copy of:

1. A W-2 form;

2. Tax records;

3. Pay stub; or

4. Correspondence relating to that employment;

(e) For stocks or dividends:

1. A copy of a stock certificate of the business entity reported;

2. Correspondence relating to the stock certificate; or

3. A statement from the broker showing ownership of that stock;

(f) For a bearer bond:

1. If the Department of the Treasury holds the original bond, a copy of the bond or information that establishes the claimant's relationship to the bonds; or

2. If the Department of the Treasury held the original bond but sold the bond pursuant to statute, the claimant shall use evidence which establishes ownership of the bond, including:

a. A copy of the bond; or

b. A list of serial numbers and a relationship to the holder;

(g) For a certificate of deposit:

1. A copy of the certificate of deposit; or

2. A record of purchase;

(h) For insurance:

1. A copy of the policy; or

2. Correspondence relating to that policy;

(i) For court funds, a copy of the court decree or court order for the case that was the source of the funds, including but not limited to:

1. Probate;

2. Condemnation;

3. Quiet title;

4. Divorce;

5. Child support; or

6. Appearance bond;

(j) For vendor checks:

1. A copy of accounts receivable billing, or invoices;
 2. Bills of lading;
 3. Correspondence with the holder reporting and remitting the funds that show a business relationship for each payment; or
 4. A statement that the funds are still considered to be due and owing on the account;
- (k) For a claim by an heir of a listed owner:
1. Final decree of probate; or
 2. If the estate is intestate:
 - a. An order of the court dispensing with administration; or
 - b. A court order appointing an administrator to the estate and a letter from the administrator of the estate allowing the release of the property from the estate;
- (l) For cashier's checks, the payee shall tender proof of identity as the owner, unless the purchaser submits sufficient documentation to prove a superior claim; or
- (m) For a claim where ownership cannot be established by proof as required by paragraphs (a) through (l) of this subsection, the Department of the Treasury may accept alternative proof to establish ownership.
- (5)(a) A claim by a finder or agent of a listed owner shall be based on a notarized contract with the owner or heir of the owner. The Department of the Treasury may contact the owner or claimant to verify that the owner or the claimant is aware of the full amount of unclaimed property involved.
- (b) The finder or agent shall provide to the Department of the Treasury:
1. A notarized copy of the contract showing names, current addresses, and Social Security numbers or Federal Employer Identification numbers of all parties to the contract;
 2. A notarized affidavit from the claimant stipulating that the finder or agent has explained to the claimant the law on unclaimed properties and that unclaimed property due the claimant may be claimed without a fee, free and simple; and
 3. The same documentation that the claimant of the unclaimed property would otherwise have to exhibit in order to show proper proof of entitlement to the unclaimed property.
- (6)(a) Payment of claims valued at \$4,999.99 and below shall be authorized upon review of documentation submitted by the claimant and approval by two (2) Treasurer-designated Department of the Treasury employees.
- (b) Payment of claims valued above \$4,999.99 shall be authorized upon review of documentation submitted by claimant and approval by three (3) Treasurer-designated Department of the Treasury employees.
- (c) Payment shall be made:
1. In the name of, and mailed to, the established owner; or
 2. To the executor, executrix, administrator, administratrix of the estate or personal representative; the court appointed guardian; or to an heir for distribution to other heirs, if any.

Section 3. Stock Certificates. A stock certificate received through a safe deposit box or directly from a holder shall be released to the rightful owner by one (1) of the following methods:

- (1) Stock certificate in the owner's name;
- (2) Stock certificate in the name of the Department of the Treasury with an affidavit ready for transfer to the owner;
- (3) Payment of money received for the certificate if the stock has been redeemed by the issuer or has been sold in accordance with state law; or
- (4) If the stock certificate is obsolete and in the original owner's name, the stock certificate shall be transferred directly to the owner. If the original owner is deceased, the lawful heirs shall determine disposition.

Section 4. Duty of Holder Who Receives Claim. (1) If a claim for unclaimed property is made to a holder, the holder may direct the claimant to the Department of the Treasury for review and payment of the claim.

(2) If the holder chooses to consider the claim for payment, the holder shall, prior to paying the claim, inquire in writing to the Department of the Treasury to determine whether there have been any other competing claims for that property.

(3) The Department of the Treasury shall respond to the holder in writing within ten (10) business days of receipt of the inquiry indicating whether another claim has been paid out for the property at issue or whether there is a competing claim pending. If there is a competing claim or if another claim has been paid out for the property at issue, the Department of the Treasury shall notify:

(a) The holder and the holder shall not pay the claimant; and

(b) The claimant in writing of his right to request a hearing on his claim.

Section 5. Payment of Claim. (1) If a claimant submits a claim for unclaimed property to a holder, and the holder determines that the claimant is entitled to the property and that there have been no other competing claims paid out of the same property, the holder may pay the claimant.

(2) If the property was not held in an interest-bearing demand, savings or time deposit account, and if the property has already been turned over to the Department of the Treasury, the holder shall be reimbursed by the Department of the Treasury for a claim paid if the holder submits:

(a) Written confirmation from the Department of the Treasury that the Department of the Treasury was contacted prior to the payment of the claim to determine if there were any conflicting claims or if there were any prior paid claims on the property;

(b) An affidavit which identifies the proof used to determine that the claimant was entitled to the property. The proof shall meet the requirements established in Section 2 of this administrative regulation. A copy of the proof relied on shall be attached to the affidavit; and

(c) Proof that payment was made to the claimant. (21 Ky.R. 682; 1280; eff. 10-12-1994; 26 Ky.R. 409; 790; 987; eff. 11-15-1999; 30 Ky.R. 1580; 2012; eff. 3-18-2004; Crt eff. 6-12-2019.)